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UNCLAS SECTION 01 OF 05 DUBAI 000128

SIPDIS

E.O. 12958: N/A
TAGS: [IR](#) [PREL](#)
SUBJECT: IRAN'S EXPANDING JUDICIARY DRAWS MAJLIS FIRE

11. (U) Sensitive But Unclassified - Protect Accordingly

12. (SBU) SUMMARY: In late December 2004 the Majlis Judicial And Legal Committee approved a bill to investigate the Iranian Judiciary, forwarding it to the Majlis General Session for consideration. Also in late December 2004 a related ongoing dispute between the Judiciary's Counter-Intelligence branch and members of the Majlis became public. The Majlis claimed that the Judiciary had interfered with an Experts Assembly investigation of the Judiciary, whereas the Judiciary claimed that the investigation itself was illegal and that those carrying out the Experts Assembly investigating team were themselves criminals involved in fraud and other illegal activities.

13. (SBU) SUMMARY (CONT): This rare Majlis-Judiciary public confrontation occurs as the Judiciary is seeking to vastly increase its intelligence and security capabilities. Some insiders interpret the Majlis's attempted crackdown on the Judiciary as an effort by the Islamic Revolutionary Guard Corps to suppress the Judiciary's drive for greater power and independence. END SUMMARY.

MAJLIS SEEKS TO INVESTIGATE JUDICIARY

14. (U) According to the Majlis news service, on October 31, 2004 Majlis representative Hassan Kamran, member of National Security and Foreign Policy Committee, said that approximately 100 representatives had signed a bill to investigate the Iranian Judiciary. On December 22 Iranian press reported that the Judicial and Legal Committee (dominated by hard-line conservatives) had approved the investigation request, with the bill subsequently to be voted on by the Majlis as a whole.

15. (U) The bill's proposed investigative mandate was extensive, with Committee member Mahmoud Dehqani telling press that the focus would be on:

- the Judiciary's success in confronting economic corruption;
- reports of judges and judicial authorities taking personal advantage of their official position, and the quality of supervision on financial and ethical issues for the Justice Department's personnel and judges;
- the Judiciary's approach to social disorder;
- subordinate Judiciary organizations, such as the Deeds and Properties Registration Organization, the Judiciary Information Security (CI) Department, the State General Inspection Organization, and the Prisons Organization;
- the Judiciary's performance in respecting those with business before it, and the conduct of judges and judicial authorities;
- disbursement of Judicial funds allocated to it under the Third Development Plan;
- the quality of executing the leader's orders with regard to the Judiciary;
- the function of Articles 49 and 142 of the Constitution, which authorize the government to confiscate all illegally acquired wealth (49) and which authorize the head of the Judiciary to investigate the assets of key government personnel before and after their government service, to ensure their wealth "has not increased in a fashion contrary to law, (142)."

JUDICIARY SAYS HANDS-OFF

16. (U) In response to the proposed bill, Judiciary spokesman Jamal Karimi Rad told press that any broad Majlis investigation of the Judiciary would be unconstitutional, since the Majlis was by law allowed to investigate only the Judiciary's financial matters. Despite Karimi Rad's contention, one of the most vocal proponents of the Majlis investigation, Tabriz Representative Eshrat Shayeq (a hard-line conservative), told press that the Majlis investigation was consonant with its supervisory mandate, and that it was going to investigate the general performance of the Judiciary, not any specific decrees or rulings.

EXPERTS ASSEMBLY INVESTIGATION?

17. (U) Judiciary-Majlis relations took a new twist in late December 2004, when Iranian press broke a story that Iran's Experts Assembly (EA -the 70 member clerical body charged with selecting and overseeing the Supreme Leader) was investigating the Judiciary, in accordance with its constitutional authority to investigate the Leadership and its subordinate organizations.

On December 22, a conservative Iranian news site reported that the EA had authorized its representative from East Azerbaijan, Ayatollah Orumiyan, to investigate the Judiciary. According to these initial reports, Orumiyan had formed a three-person investigating group led by his office head, Hossein Madhi (aka Mr. Hosseini, Haj Reza Hosseini). The two other members of this EA investigating group were (the abovementioned) Majlis Tabriz representative Eshrat Shayeq and another individual belonging to Orumiyan's office, referred to as 'Sepehr.'

18. (U) According to initial press accounts, this EA investigating group focused on the Judiciary's "Information Security department" ("Hefezat-e Ettela'at," i.e. the Judiciary's Counter-Intelligence branch - CI). According to initial press reports there were rumors that this EA investigating team exceeded its legal mandate, and armed with weapons, attempted to detain some of the Judicial CI officials. The resultant clash between this EA group and the Judiciary's CI led to "Sepehr's" death and Hossein Madhi's hospitalisation.

JUDICIARY DENIES IT...

¶9. (U) In response to these initial reports, on December 29, Iranian press relayed the comments of both Judiciary spokesman Jamal Karimi Rad and Head of the Judiciary's Information Security (CI) Department Elyas Mahmoudi. Both denied there was any EA investigation of the Judiciary, and also denied the death and injury of the putative investigating committee's members. Rather, Mahmoudi told press that the "EA investigating committee" was instead a band of criminals using "forged decrees" to commit illegal acts. He claimed that the EA leadership had denied the authenticity of all decrees presented by this "EA investigating group," saying that the group in no way represented it. Mahmoudi said that Majlis representative Eshrat Shayeq seemed to have been in league with this illegal group. He said she had abused her position as a member of the Majlis Article 90 Commission (charged with investigating citizens' complaints) to issue Majlis decrees in support of this criminal group, these decrees also having been subsequently repudiated by the Article 90 Commission.

...MAJLIS DENIES DENIAL

¶10. (U) Later on December 29 Iranian press carried the comments of Majlis representative Teymur Ali 'Asgari, Deputy Head of the Article 90 Commission, who denied Judiciary CI department Mahmoudi's denials. 'Asgari claimed that an EA member (Ayatollah Orumiyan) had in fact authorized this three-person group to investigate the Judiciary, focusing on "parallel intelligence structures" within the Judiciary. 'Asgari said the Judiciary's CI department had prevented this group's activities and detained two group members. He confirmed that Tabriz representative Shayeq had been a group member, and denied Mahmoudi's charges of her involvement in illegal activities. 'Asgari said that the Article 90 Commission had formed a committee to investigate what had happened between the Judiciary's CI department and the EA investigating group. More generally, he added that most complaints received by the Article 90 Commission involved the Judiciary.

...JUDICIARY PROVIDES DETAILS

¶11. (U) The next development came on January 1, 2005, when a Deputy in the Judiciary's CI department, Judge Vahed Sharifi, gave a press conference about the "EA Investigating Group" case. Sharifi, who was the case's examining magistrate, said that a case against this group had been opened based on complaints from numerous entities and individuals. All of the plaintiffs had claimed that the group's head "Hosseini" had presented himself as the "Office Head and Supreme Security and Political Advisor" to EA member Ayatollah Orumiyan. According to Sharifi, Hosseini had abused his position within Ayatollah Orumiyan's office to intervene in open judicial cases on behalf of one of the parties. He also said numerous private plaintiffs had claimed that Hosseini's group had forced them to sign contracts ceding valuable lands in Tabriz and elsewhere. Two plaintiffs, the Kish Island Free Trade Organization and the Kish Island Free Trade Zone Law Enforcement Forces Commander, alleged that Hosseini's group had sought to intercede in an open legal case on behalf of a former leaseholder of the Shayan Hotel, even flying down an armed delegation to Kish Island to force evacuate the hotel in favor of this former leaseholder.

¶12. (U) In one bizarre case cited by Sharifi, at one point Hosseini had been hospitalized in Tehran's Mehr Hospital and had become enamored of an attending nurse. Despite having four wives already, he proposed to her. When she repeatedly refused, he used threats to press his case, and upon release got a court warrant for her detention after having submitted false information about her. Armed with this warrant, he and some others went to the hospital, "put a sack over her head," and took her to an illegal detention center in Tehran, where, according to charges, he harassed and molested her. According to Sharifi, Majlis representative Eshrat Shayeq was present during the whole of this nurse's illegal incarceration and interrogation.

¶13. (U) Sharifi also charged that Shayeq had written letters on official Majlis stationary empowering Hosseini on behalf of the Article 90 Commission and appointing him "Supreme Security and Political Advisor" for the Commission, which he subsequently used for his illegal activities. Sharifi also said that over 400 decrees signed by Ayatollah Orumiyan were seized when Hosseini was arrested, many of these decrees seeking to influence the courts on behalf of one of the involved parties. Also seized was a letter issued by Orumiyan authorizing Hossein to carry spray gas, handcuffs and walkie-talkie, and a revolver.

¶14. (U) Sharifi told press that based on Judiciary and Intelligence Ministry investigations, ten members of the Hosseini gang had been arrested. Charges against them include "impersonating a government official, fraud, involvement in illegal detention, illegal sales of government property, and interference in judicial affairs." Sharifi added that according to the Intelligence Ministry, Hosseini had a criminal record and had previously been detained for misrepresenting himself as a government official. Sharifi said all the defendants had been freed on bail. Concerning Majlis representative Shayeq and EA member Ayatollah Orumiyan, Sharifi said the former's Parliamentary Immunity had prevented her from being arrested heretofore, and that the file on Orumiyan would be sent to the Special Clerical Court.

¶15. (U) According to another January 1, 2005 press account, Ayatollah Orumiyan was a member of the EA's standing Investigative Commission, and as such had opened an investigation of the Judiciary in approximately June 2003, creating this three-member investigating team. In August 2004, when some of the team's findings came to the attention of officials in the Judiciary and the EA, it encountered increased opposition from the Judiciary's CI. On August 22, 2004, the Judiciary's CI arrested 17 people related to this EA investigating team, to include team leader Hosseini. According to this account Hosseini was detained for 47 days "in harsh conditions", and released on bail on October 7, 2004. He subsequently complained to the Article 90 commission. This article said that EA investigating team member "Sepehr," who was originally reported to have died in Judiciary detention, had in fact died of a heart attack upon hearing of his imminent arrest on August 25. This news account relayed the rumor that "Hosseini" was one of those purged in 1998 from the Intelligence Ministry due to the "Serial Killings," controversy, after which he started working in Orumiyan's office.

AE'S AYATOLLAH ORUMIYAN - "MISTAKES WERE MADE"

¶16. (U) On January 1, 2005, Iranian press carried a letter from EA member Ayatollah Orumiyan to the Judiciary CI head Alyas Mahmoudi. Saying that both he and Mahmoudi were "working to defend the Revolution, protect the martyrs' blood and carry out our duties to the exalted Leader," he chastised Judiciary investigating magistrate Sharifi for commenting publicly on an investigation in progress. In this letter and in a separate statement released to press, Orumiyan said his office staff included official representatives of Iran's intelligence and security organizations, to include the Judiciary's CI department, and that these representatives were involved in and fully apprised of the office's activities, as was Judiciary CI head Mahmoudi himself. Due to their official positions, Orumiyan had fully trusted these security and intelligence individuals within his office. He said that he had in fact authorized an investigation into the Judiciary, but claimed to have been unaware of any violations by his office director, whom he fired as soon as he became aware of alleged violations.

¶17. (U) On January 5, 2005, Iranian press printed a letter from Majlis representative Eshrat Shayeq to Judiciary Head Ayatollah Shahrودي, denying the charges against her and asking for him to investigate Judiciary investigating magistrate Sharifi for commenting so extensively to press on an open case. She also told Iranian press that she knew that she would be 'targeted' by the Judiciary once she began calls for its investigation, and that the subsequent actions against her by the Judiciary had confirmed her previous concerns. She also cited her calling for an enquiry into the death in detention of Iran-Iraq water

veteran Rajabi Sani, who was allegedly tortured and killed at the hands of judiciary officials, as another reason for judicial animus against her.

¶18. (U) The most recent development in this case occurred on January 7, 2005, when Iranian press carried a statement by the main defendant "Hosseini," in which he claimed that he didn't have four wives, had never violated the law nor been found guilty of any crime, and had not fired from his job (rather, he quit). He claimed that whatever he had done was legal, and in accordance with the responsibilities entrusted to him. He concluded by saying he was a war veteran with 37 pieces of shrapnel in his body, who each day has to take more than 50 pills, seven sprays, and three syrups.

IRGC TRYING TO SLAP DOWN JUDICIARY?

¶19. (U) These problems for the Judiciary come amidst its efforts to vastly increase its investigative and prosecutorial powers. In December 2004 Iranian press also reported on the Judiciary's creation of provincial civil defense militia entitled "Units for Protecting Society ("Sazeman-e Hefazat-e Ejtema'i"). These units, first proposed by Judiciary Head Ayatollah Shahroudi in January 2004, were to be entrusted with "crime-fighting, intelligence-gathering and providing religious guidance," in accordance with the Article 8 of the Constitution and the Islamic precept of "enjoining the good and forbidding the evil ("Amr be Ma'ruf va nahi az monkar").

¶20. (U) Many Majlis members have spoken up against these provincial units, some of which have already been stood up. They note that their mission replicates that of the Basij, and that these units have been created without any authorizing Majlis legislation. Basij Commander Brigadier General Seyed Mohammad Hejazi was quoted in press as saying that this "rival militia" would cause many problems, and that "this scheme lacks expertise and professional groundwork."

¶21. (U) Iranian Press in December also reported the Judiciary's plans to create its own "Judicial Police Organization" ("Sazeman-e Zabetayn-e Qohveh-e Qaza"), responsible for uncovering and investigating crime, a function currently largely carried out by the Basij, Intelligence Ministry and Law Enforcement Forces. Analysts of the Iranian scene cite these two new proposed forces as further evidence of the transformation over recent years of Iran's Judiciary's into one of the main intelligence-security organs within Iran, operating independently of the Intelligence Ministry.

¶22. (SBU) In early January 2005 Poloff met with "Reza," one of Iran's leading private sector businessmen, with extensive connections among Iran's leadership. "Reza" told Poloff that the Majlis investigation into the Judiciary was being executed at the behest of the IRGC, who had great power within the Majlis due to the number of IRGC-sponsored and affiliated representatives. The IRGC was using this influence to curtail and control the Judiciary's growing power, which it saw as a threat to itself and the Basji. "Reza" also affirmed that EA's Ayatollah Orumiyan and his office head Hosseini had abused their positions and had been involved in extensive illegal activities for commercial gain, something he said "happened all the time" at this level.

¶23. (SBU) COMMENT: It is unclear as to what actually happened between the Judiciary's CI department and the team authorized by the Assembly of Experts Ayatollah Orumiyan to investigate it, and their respective culpabilities. Regardless, the case is interesting inasmuch as the internecine struggles within conservative ranks rarely break so openly into the press. Some Iranian press analysts predict that any Majlis investigation on the Judiciary will be put off until after the June 2005 Presidential elections, when the political situation is clearer. Whatever the result, these reports of groups armed with both weapons and senior clerical authorization committing massive fraud, extortion and intervening in the judicial process give a rare detailed glimpse of the endemic high-level corruption within the Iranian government.